

SENATE BILL NO. 467

INTRODUCED BY J. BALYEAT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT BEFORE A TAX LIEN ~~DEED~~ SALE MAY BE HELD A TITLE ~~COMMITMENT~~ GUARANTEE MUST BE OBTAINED ON THE PROPERTY AND NOTICE MUST BE GIVEN TO ALL PARTIES, OTHER THAN UTILITIES, LISTED ON THE TITLE ~~COMMITMENT~~ GUARANTEE; AND AMENDING SECTIONS 15-18-212, 15-18-213, AND 15-18-216, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-18-212, MCA, is amended to read:

"15-18-212. Notice -- proof of notice -- penalty for failure to notify. (1) Not more than 60 days prior to and not more than 60 days following the expiration of the redemption period provided in 15-18-111, a notice must be given as follows:

(a) for each property for which there has been issued to the county a tax lien sale certificate or for which the county is otherwise listed as the purchaser or assignee, the county clerk and recorder shall notify ~~all persons considered interested parties in the property~~ the parties as required in subsection (4) and the current occupant of the property, if any, that a tax deed may be issued to the county unless the property tax lien is redeemed prior to the expiration date of the redemption period; or

(b) for each property for which there has been issued a tax lien sale certificate to a purchaser other than the county or for which an assignment has been made, the purchaser or assignee, as appropriate, shall notify ~~all persons considered interested~~ the parties in the property as required in subsection (4), if any, that a tax deed will be issued to the purchaser or assignee unless the property tax lien is redeemed prior to the expiration date of the redemption period.

(2) (a) Except as provided in subsection (2)(b), if the county is the purchaser, an assignment has not been made, and the board of county commissioners has not directed the county treasurer to issue a tax deed during the period described in subsection (1) but the board of county commissioners at a time subsequent to the period described in subsection (1) does direct the county treasurer to issue a tax deed, the county clerk and recorder shall provide notification to ~~all interested~~ the parties as required in subsection (4) and the current occupant, if any, in the manner provided in subsection (1)(a). The notification required under this subsection must

1 be made not less than 60 days or more than 120 days prior to the date on which the county treasurer will issue
2 the tax deed.

3 (b) If the county commissioners direct the county treasurer to issue a tax deed within 6 months after
4 giving the notice required by subsection (1)(a), additional notice need not be given.

5 (3) (a) If a purchaser other than the county or an assignee fails or neglects to give notice as required by
6 subsection (1)(b) and the failure or neglect is evidenced by failure of the purchaser or assignee to file proof of
7 notice with the county clerk and recorder as required in subsection (8), the county treasurer shall notify the
8 purchaser or assignee of the obligation to give notice under subsection (1)(b). The notice of obligation may be
9 sent by certified mail, return receipt requested, to the purchaser or assignee at the address contained on the tax
10 lien sale certificate provided for in 15-17-212 or on the assignment form provided for in 15-17-323.

11 (b) If within 120 days after the county treasurer mails the notice of obligation the purchaser or assignee
12 fails to give notice as required by subsection (1)(b), as evidenced by failure to file proof of notice with the county
13 clerk and recorder as required in subsection (8), the county treasurer shall cancel the property tax lien evidenced
14 by the tax lien sale certificate or the assignment. Upon cancellation of the property tax lien, the county treasurer
15 shall file or record with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-217.

16 (4) (A) The notice required under subsections (1) and (2) must be made by certified mail, return receipt
17 requested, to each interested party and the current occupant, if any, of the property and to each party, other than
18 a utility, listed on a property title commitment GUARANTEE, APPROVED BY THE INSURANCE COMMISSIONER AND ISSUED
19 BY A LICENSED TITLE INSURANCE PRODUCER, ordered on the property by the person required to give notice PROVIDED
20 THAT:

21 (I) THE GUARANTEE HAS BEEN APPROVED BY THE INSURANCE COMMISSIONER AND ISSUED BY A LICENSED TITLE
22 INSURANCE PRODUCER; AND

23 (II) THE GUARANTEE WAS ORDERED ON THE PROPERTY BY THE PERSON REQUIRED TO GIVE NOTICE.

24 (B) The address to which the notice must be sent is, for each interested party, the address disclosed by
25 the records in the office of the county clerk and recorder or in the title commitment GUARANTEE and, for the
26 occupant, the street address or other known address of the subject property.

27 (5) In all cases in which the address of an interested party is not known, the person required to give
28 notice shall, within the period described in subsection (1) or not less than 60 days or more than 120 days prior
29 to the date upon which the county treasurer will otherwise issue a tax deed, whichever is appropriate, commence
30 publishing once a week for 2 successive weeks, in the official newspaper of the county or another newspaper

as the board of county commissioners may by resolution designate, a notice containing the information contained in subsection (6), plus:

(a) the name of the ~~interested~~ party for whom the address is unknown;
(b) a statement that the address of the ~~interested~~ party is unknown;
(c) a statement that the published notice meets the legal requirements for notice of a pending tax deed issuance; and

(d) a statement that the ~~interested~~ party's rights in the property may be in jeopardy.

(6) The notices required by subsections (1), (2), and (5) must contain the following:

(a) a statement that a property tax lien exists on the property as a result of a property tax delinquency;

(b) a description of the property on which the taxes are or were delinquent, which must be the same as the description of the property on the tax lien sale certificate or in the record described in 15-17-214(2)(b);

(c) the date that the property taxes became delinquent;

(d) the date that the property tax lien attached as the result of a tax lien sale;

(e) the amount of taxes due, including penalties, interest, and costs, as of the date of the notice of pending tax deed issuance, which amount must include a separate listing of the delinquent taxes, penalties, interest, and costs that must be paid for the property tax lien to be liquidated;

(f) the name and address of the purchaser;

(g) the name of the assignee if an assignment was made as provided in 15-17-323;

(h) the date that the redemption period expires or expired;

(i) a statement that if all taxes, penalties, interest, and costs are not paid to the county treasurer on or prior to the date on which the redemption period expires or on or prior to the date on which the county treasurer will otherwise issue a tax deed, a tax deed may be issued to the purchaser on the day following the date on which the redemption period expires or on the date on which the county treasurer will otherwise issue a tax deed; and

(j) the business address and telephone number of the county treasurer who is responsible for issuing the tax deed.

(7) The amount of interest and costs provided for in subsection (6)(e) continues to accrue until the date of redemption. The total amount of interest and costs that must be paid for redemption must be calculated by the county treasurer as of the date of payment.

(8) Proof of notice in whatever manner given must be filed with the county clerk and recorder. If the purchaser or assignee is other than the county, the proof of notice must be filed with the county clerk and recorder

1 within 30 days of the mailing or publishing of the notice. If the purchaser or assignee is the county, the proof of
2 notice must be filed before the issuance of the tax deed under this chapter. Once filed, the proof of notice is prima
3 facie evidence of the sufficiency of the notice.

4 (9) A county or any officer of a county may not be held liable for any error of notification."
5

6 **Section 2.** Section 15-18-213, MCA, is amended to read:

7 **"15-18-213. Form of tax deed -- prima facie evidence.** (1) The form of a tax deed issued under the
8 provisions of this chapter, executed by a county treasurer, must be made in substance as follows:

9 This deed is made by (name of county treasurer), county treasurer of the county of (name
10 of county), in the state of Montana, to (name of purchaser, the purchaser's agent, or assignee), as
11 provided by the laws of the state of Montana:

12 Whereas, there was assessed for (year) the following real property (description of the
13 property); and

14 Whereas, the taxes for (year) levied against the property amounted to \$; and

15 Whereas, the taxes were not paid and a property tax lien for the payment of the taxes attached and was
16 sold to (name of purchaser or the purchaser's agent or assignee) on (date, including year) for the
17 sum of \$, which amount included delinquent taxes in the amount of \$, penalties in the amount of
18 \$, interest in the amount of \$, and other costs in the amount of \$; and

19 Whereas, a tax lien sale certificate was issued and filed or the sale otherwise recorded as required by
20 law; and

21 Whereas, notice was given to ~~interested~~ required parties in accordance with 15-18-212 that the issuance
22 of a tax deed was pending; and

23 Whereas, the property tax lien has not been redeemed by (name of former owner) or any other
24 person entitled to redeem it.

25 Now, therefore, I, (treasurer's name), county treasurer of the county of, in the state of
26 Montana, in consideration of the sum of \$ paid, hereby grant to (name of purchaser or the
27 purchaser's agent or assignee) all the property situated in County, state of Montana, described in this
28 document.

29 Witness my hand on this date (date, including year).

30County Treasurer

.....County

(2) A tax deed executed in substantially the form provided in subsection (1) is prima facie evidence that:

(a) the property was assessed as required by law;

(b) the taxes were levied in accordance with law;

(c) the taxes were not paid when due;

(d) notice of tax lien sale was given and a property tax lien was sold at the proper time and place as provided by law;

(e) the property was not redeemed, and proper notice of a pending tax deed issuance was made as required by law;

(f) the person who executed the deed was legally authorized to do so; and

(g) if the real property was sold to pay delinquent taxes on personal property, the real property belonged to the person liable to pay the personal property tax."

Section 3. Section 15-18-216, MCA, is amended to read:

"15-18-216. Form of proof of notice. Section 15-18-212 requires that proof of notice must be filed with the county clerk. The proof of notice may be made as follows:

PROOF OF NOTICE

I, (Name and Address), acting as or on behalf of the owner of the property tax lien, have complied with the notice requirements of Title 15, chapter 18, MCA, as follows:

1. A "Notice of Issuance of Tax Deed" was mailed to the owners, current occupant, and interested parties, as ~~that term is defined in section 15-18-111(3)~~ required by 15-18-212, MCA. A copy of each notice is attached or is on file in the office of the county clerk.

2. The notices were mailed by certified mail, return receipt requested. Copies of the return receipts are attached or are on file in the office of the county clerk.

3. Notice was given to interested parties with unknown addresses by publishing in the official newspaper of the county, which is, on and Proof of publication is attached.

DATED:

.....

(Signature)

SUBSCRIBED AND SWORN TO before me this (Date).

1
2	Notary Public for the State of Montana
3	Residing in
4	My Commission Expires"
5	- END -